

**CAUSE NO.** C-0432-21-A

<b>GINA GONZALEZ</b>	<b>§</b>	<b>IN THE DISTRICT COURT OF</b>
	<b>§</b>	
	<b>§</b>	
<b>VS.</b>	<b>§</b>	<b>HIDALGO COUNTY, TEXAS</b>
	<b>§</b>	
<b>TRANSPORTES ROGASA DE VALLE</b>	<b>§</b>	
<b>HERMOSO SA DE CV and SERGIO</b>	<b>§</b>	
<b>ALDAPE BADILLO</b>	<b>§</b>	<b>_____ JUDICIAL DISTRICT</b>

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW GINA GONZALEZ, Plaintiff herein, complaining as specified hereinbelow of TRANSPORTES ROGASA DE VALLE HERMOSO SA DE CV and SERGIO ALDAPE BADILLO, Defendants herein, and hereby respectfully files this Plaintiff's Original Petition, and also shows the Court the following:

**I.**

This case is intended to be conducted as a Level 2 discovery control plan case.

**IIa.**

Plaintiff is a resident of Palmview, Hidalgo County, Texas.

**IIb.**

Defendant TRANSPORTES ROGASA DE VALLE HERMOSO SA DE CV is a for-profit corporation authorized to do business in the state of Texas and it may be served with process by serving its duly appointed registered agent in person, to-wit: David R. Cantu, 101 N. McColl Road, Suite 10, McAllen, Texas 78501.

**IIc.**

Defendant SERGIO ALDAPE BADILLO is an individual who resides in Valle Hermoso, Mexico and he is a nonresident of the state of Texas. At the time the collision made the basis of

**C-0432-21-A**

this lawsuit occurred the Defendant SERGIO ALDAPE BADILLO was operating a motor vehicle on the public roads of the State of Texas; therefore, pursuant to the Texas Civil Practices and Remedies Code, Section 17.061 et seq., the Chairman of the Texas Transportation Commission is appointed as said Defendant's (i.e. SERGIO ALDAPE BADILLO's) agent for service of process.

Thus, two copies of the citation and two copies of this Petition are to be served on the Chairman of the Texas Transportation Commission by registered mail, return receipt requested, by serving Chairman J. Bruce Bugg, Jr. at 125 E. 11<sup>th</sup> Street, Austin, Texas 78701-2483.

The Chairman of the Texas Transportation Commission in turn is to send a copy of the citation and a copy of the petition by registered mail, return receipt requested to Defendant, SERGIO ALDAPE BADILLO.

**III.**

This suit is brought pursuant to the law of negligence and venue is proper in Hidalgo County, Texas because it is the county where the collision in question occurred.

**IV.**

A vehicular collision occurred in the 1900 block of N. Conway Avenue in Mission, Hidalgo County, Texas on or about the date of February 16, 2019 at approximately 2:19 p.m. between a white 2018 Chevrolet Cruze passenger car driven by the Plaintiff GINA GONZALEZ and a 2004 blue International (model 9400) commercial truck tractor operated by Defendant, SERGIO ALDAPE BADILLO. At said time and place, the Plaintiff was operating her Chevrolet Cruze and was traveling northbound in the outside lane of N. Conway Avenue, when Defendant SERGIO ALDAPE BADILLO operating the aforesaid 2004 International 9400 northbound in the inside lane of N. Conway Avenue suddenly made an unsafe lane change from the inside lane to the outside lane and collided with the left back (driver's) side of Plaintiff's vehicle. The Defendant SERGIO

**C-0432-21-A**

ALDAPE BADILLO at the time of the collision was operating the 2004 International truck tractor in question while he was in the course and scope of his employment duties for his employer, the Defendant TRANSPORTES ROGASA DE VALLE HERMOSO SA DE CV – which owned the 2004 International truck tractor. As a proximate result of the aforesaid collision, the Plaintiff suffered serious and disabling personal bodily injuries. The collision and bodily injuries suffered by Plaintiff were a proximate result of the negligence of the Defendant SERGIO ALDAPE BADILLO.

**V.**

The collision in question and the injuries/legal damages to the Plaintiff were proximately caused by the negligent acts and/or omissions of the Defendant SERGIO ALDAPE BADILLO, in, but not limited to, the following particulars:

- 1) Driving a vehicle in willful disregard for the safety of persons or property. Such omission is a violation of V.T.C.A., Transportation Code, §545.401, and constitutes negligence *per se*;
- 2) Failing to keep a proper lookout;
- 3) Failing to properly and timely apply brakes;
- 4) Failing to maintain proper control of his vehicle;
- 5) Failing to give proper warning of an impending collision;
- 6) Failing to control his vehicle's speed;
- 7) Traveling at a greater rate of speed than a person of ordinary prudence under the same of similar circumstances;
- 8) Driver inattention;
- 9) Making an unsafe and improper lane change; and
- 10) Failing to drive in a single lane of traffic.

**VI.**

Plaintiff will also show that at the time of the collision in question the Defendant SERGIO

**C-0432-21-A**

ALDAPE BADILLO was an employee of the Defendant TRANSPORTES ROGASA DE VALLE HERMOSO SA DE CV and was acting within the course and scope of his employment duties for such employer/Defendant TRANSPORTES ROGASA DE VALLE HERMOSO SA DE CV at the time of the collision. Therefore, Plaintiff hereby asserts that the Defendant TRANSPORTES ROGASA DE VALLE HERMOSO SA DE CV is legally responsible and liable for the negligence of its employee/the Defendant SERGIO ALDAPE BADILLO, and for the injuries to Plaintiff proximately caused thereby, by reason of the doctrine of respondeat superior.

**VII.**

Plaintiff also maintains that Defendant TRANSPORTES ROGASA DE VALLE HERMOSO SA DE CV in entrusting the 2004 International 9400 truck tractor in question to its employee SERGIO ALDAPE BADILLO committed various acts and/or omissions, each of which constituted negligence, and each of which was the proximate cause of the occurrence in question and, specifically a proximate cause of the bodily injuries and legal damages to the Plaintiff.

The Defendant TRANSPORTES ROGASA DE VALLE HERMOSO SA DE CV knew or should have known by the exercise of reasonable care that Defendant SERGIO ALDAPE BADILLO was not competent to operate the 2004 International 9400 truck tractor in question in a safe and prudent manner by virtue of Defendant SERGIO ALDAPE BADILLO's lack of sufficient training and experience, and his habitual propensity to drive motor vehicles in violation of the traffic laws of the state of Texas which was known by or should have been known by the Defendant TRANSPORTES ROGASA DE VALLE HERMOSO SA DE CV by the exercise of reasonable care.

**VIII.**

As a proximate result of the Defendant SERGIO ALDAPE BADILLO's negligence, the Plaintiff GINA GONZALEZ, has been injured in the following particulars:

**C-0432-21-A**

- 1) Necessary and reasonable medical expenses, past and future;
- 2) Physical pain and mental anguish, past and future;
- 3) Physical Impairment, past and future; and
- 4) Loss of wage earning capacity, past and future.

**IX.**

Should it be shown that the Plaintiff was suffering from any pre-existing injuries, disease and/or conditions at the time of the collision in question, then Plaintiff will show that the same was aggravated and/or exacerbated by the superimposition of the trauma caused by the above-described collision.

Plaintiff hereby provides notice of intent to utilize any and all relevant & admissible items produced in discovery by either Defendant against such same party defendant. The authenticity of such items are to be considered self-proven to the extent permitted by TRCP 193.7.

WHEREFORE, PREMISES OF THIS PETITION CONSIDERED, Plaintiff hereby prays for judgment to be rendered against the Defendants, jointly and severally, for Plaintiff's actual damages in an amount of \$74,500.00 favoring the Plaintiff, in accordance with T.R.C.P. 47 (c) (1), which includes pre-judgment interest, post-judgment interest, court costs, and all such other relief, at law or in equity, to which the Plaintiff may be justly entitled from the Defendants.

**C-0432-21-A**

Respectfully submitted,

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State Bar No. 07107550

ATTORNEY FOR PLAINTIFF